

REMARKS

Entry of the foregoing and reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested in light of the remarks which follow.

Claims 1-5, 7-9, 13 and 14 are currently pending. Claims 1 and 14 are amended herein. Support for the amendments can be found throughout the specification, and for example on page 2. Thus, no prohibited new matter is presented by way of the present Amendment. These amendments are being offered to facilitate prosecution.

The Office has required a substitute copy of the sequence listing, which is provided herein for the Office's convenience. In the outstanding Office Action, the Office states that the sequence for SalI is not part of the sequence listing. Although 37 C.F.R. § 1.821(a) states that , "(a) Nucleotide and/or amino acid sequences as used in §§ 1.821 through 1.825 are interpreted to mean an unbranched sequence of four or more amino acids or an unbranched sequence of ten or more nucleotides.", in the interest of expediting prosecution, a substitute sequence listing is provided herein containing the sequence of SalI (only six nucleotides long).

The figures are amended herein to include the sequence identifiers relating to the sequences of Figures 1-3. A copy of the Notice of Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures is attached, as requested.

Applicants respectfully request that these objections to the sequence listing be withdrawn.

Rejection under 35 U.S.C. §112, First Paragraph

Claims 1-3, 7-9 and 14 stand rejected under 35 U.S.C. § 112, first paragraph, as purportedly lacking enablement. Specifically, the examiner admits that the

specification identifies cytokines in the IL-6 family as IL-6, IL-11, CNTF, OSM, LIF and CT-1, though the specification is enabling only for fusion proteins of IL-6/IL-6R, CNTF/CNTFR and IL-11/IL-11R. However, the examiner asserts that the soluble receptors of LIF, OSM and CT-1 do not act agonistically, and thus, fusion proteins comprising these cytokines and their receptors would not be expected to have agonist activity or any specific activity. Applicant has amended claim 1 to limit the cytokines in the IL-6 family to IL-6, IL-11, CNTF, or subunit thereof. Therefore, it is believed that the claim amendments render the rejection moot, and it is respectfully requested that the rejection of the claims under 35 U.S.C. § 112, first paragraph, be withdrawn.

Claim 14 stands rejected under 35 U.S.C. § 112, first paragraph, as purportedly lacking enablement. Specifically, the examiner asserts that the specification does not provide adequate guidance as to how the fusion polypeptides or DNA can be used to treat or diagnose any disorders. Additionally, the examiner asserts that Claim 14 encompasses gene therapy, and purports that the specification has not provided the support and guidance necessary to enable a method of gene therapy. However, the examiner indicates that the specification enables the use of "a composition" comprising the fusion polypeptides or DNA encoding fusion polypeptides, and a pharmaceutically acceptable carrier. Therefore, it is believed that the claim amendment, deleting reference to "pharmaceutical composition", and replacing it with "composition" renders the rejection moot, and it is respectfully requested that the rejection of this claim under 35 U.S.C. § 112, first paragraph, be withdrawn.

Claim Objections

Claims 4, 5 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. With the claim amendments as noted above, it is believed that the objection is rendered moot, and allowance of the claims is respectfully requested.


Conclusion

For the reasons set forth above, it is believed that this case is in condition for allowance. Applicants accordingly request that this Amendment be entered and that the rejections under 35 U.S.C. § 112, First Paragraph be carefully reconsidered. In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that the prosecution of this application may be expedited.

Respectfully submitted,

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Attachments: Replacement Sheets (Figs. 1, 2 and 3)

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